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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,979	06/26/2003	Kirkland W. Vogt	5014A	6442

7590 05/16/2007
Charlotte C. Wilson
Legal Department, M-495
PO Box 1926
Spartanburg, SC 29304

EXAMINER

DAVIS, JENNA L

ART UNIT	PAPER NUMBER
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1771

MAIL DATE	DELIVERY MODE
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05/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/606,979

Applicant(s)

VOGT ET AL.

Examiner

Jenna Davis

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 4-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 4-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 4-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al. (US 4,109,038) in view of Lovingood (US 2003/0190853).

Hayashi et al. teach a suede-like raised woven fabric which comprises warp yarns and weft yarns and an elastic polymer applied to the fabric (abstract). The fibers can be natural fibers such as wool or cotton (col.5 lines 65-67). After application, the elastic polymer can be solidified by coagulation (col.7 lines 19-20). The woven fabric can have a satin weave construction (col. 13 lines 34-35). The raised fibers are napped fibers (col.11 Table 1). The coating is applied to the back-side surface, or the surface which has the least amount of raised fibers, if both sides undergone the raising process (col.7 lines 1-3). As shown in Example 1, the woven fabric has 70 warps/inch and 56 wefts/inch. According to Example 3, the weight of the fabric is 301 grams per square meters (Table 1). Claims 12-13 recite a property limitation. Therefore, Hayashi et al. would necessarily have a cotton count of the filling yarns in the range of 4/1 through 32/1 and

Art Unit: 1771

4/2 through 32/2 and warp yarns in the range of 8/1 through 32/1 and 8/2 through 32/2. The elastic polymer is also impregnated into said fabric (claim 7), which anticipates the limitation of claim 2 which requires that the polymer is partially incorporated into the fabric.

Hayashi et al. fail to teach calendering. Lovingood is drawn to stretchy woven fabrics using natural yarns. Lovingood teaches that the woven fabric can be napped or calendered on the surface (pg.3 par.0032). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use calendering on the surface of the fabric of Hayashi et al. as taught by Lovingood motivated to create a smooth surface of the woven fabric. Further it would have been obvious to include some of the natural fibers of Lovingood to the weft of Hayashi as a means to save money on the expensive composite yarns provided by Hayashi with the reasoned expectation that a fabric with good surface texture would be provided as taught by Lovingood.

Response to Arguments

Applicant's arguments filed 2/26/2007 have been fully considered but they are not persuasive.

The argument that the present claims require both the warp and fill yarns to be made of natural fibers is not persuasive as the claims are not limited to the degree argued. The claims recite comprising which does not preclude the presence of synthetic fibers in the fabric.

The argument regarding the requirements for establishing a prima facie case of obviousness is not found persuasive as the Examiner has established the teachings of the closest prior art. The differences between what is claimed and that art, and the reasons why a person having ordinary skill in the art would find such differences obvious. In the present case a person having ordinary skill in the art would have appreciated that providing less expensive

Art Unit: 1771

natural fibers in the material of Hayashi and calendaring the material would have resulted in a less costly product with good surface texture.

It is not agreed that a person having ordinary skill in the art would not have appreciated that improved surface texture would be provided by calendaring the Hayashi material as taught by Lovingood. A person having ordinary skill in the art in the art of textiles would have appreciated that such processing would be expected to produce this quality on any of a variety of textile materials.

The Examiner maintains that a person having ordinary skill in the art would have appreciated that using less expensive natural fibers in the Hayashi material would have been expected to provide a less expensive final product.

As to the argument regarding the use of a coagulated elastomer, it is not seen that this limitation would be apparent in the final product which is what is at issue in this application.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

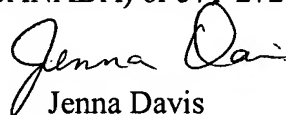
Art Unit: 1771

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna Davis whose telephone number is 571-272-3357. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jenna Davis
Primary Examiner
Art Unit 1771

jld